

REMARKS

Applicants have reviewed the Application in light of the Final Office Action mailed July 21, 2009 and the Advisory Action mailed October 2, 2009. Claims 25-48 are pending in this Application. Claims 31-33 stand rejected under 35 U.S.C. § 102(e) and Claims 25-30 and 34-48 stand rejected under 35 U.S.C. § 103(a). Applicants respectfully request reconsideration and favorable action in this case.

Rejections under 35 U.S.C. § 102

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). Furthermore, “the identical invention must be shown in as complete detail as is contained in the ... claim.” *Richardson v. Suzuki Motor Co. Ltd.*, 868 F.2d 1226, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989).

Claims 31-33 stand rejected by the Examiner under 35 U.S.C. § 102(e) as allegedly being anticipated by U.S. Patent Publication 2003/0131353 filed by Rolf Blom *et al.* (*Blom*).

Blom discloses managing rights to streaming media using a management mechanism based on a content object and a rights object. A distribution server transmits a content object with a protect initiation description to a client, as shown by arrow 27 of FIG. 6. (Paragraph [0109]). The distribution server then transmits a rights object containing the usage rights and the content key to the client, as show by arrow 28 of FIG. 6. (Paragraph [0109]). The client uses the content key to decrypt the session initiation description and initiates the set up of a streaming session with a streaming server. (Paragraph [0109]).

Claim 1, in part, recites a method comprising

 checking whether the content having the attributes specified in the description information can be used by the first telecommunications device; and

 requesting from the data provisioning component, upon successful checking of the attributes specified in the description information, a confirmation object which is assigned to a rights object assigned to the encrypted user data object in order to check compatibility of the rights object and the encrypted user data object.

Applicants respectfully submit that the cited reference fails to teach, disclose or suggest every element of Applicants' invention. *Blom* fails to teach a method for handling encrypted user data objects comprising "checking whether the content having the attributes specified in the description information can be used by the first telecommunications device; and requesting from the data provisioning component, upon successful checking of the attributes specified in the description information, a confirmation object which is assigned to a rights object assigned to the encrypted user data object in order to check compatibility of the rights object and the encrypted user data object," as recited in Claim 31.

The Examiner contends that Paragraphs [0007] and [0085] of *Blom* discloses checking whether the content having the attributes specified in the description information can be used by the first telecommunications device. (Page 2 of the Final Office Action). In reviewing the relied upon paragraphs, *Blom* merely discloses protecting the media, or content, by providing a secure protocol and providing cryptographic key(s). *Blom* fails to disclose, teach, or suggest "checking whether the content having the attributes specified in the description information can be used by the first telecommunications device," as recited in Claim 31.

The Examiner also contends that Paragraphs [0007], [0011], and [0012] of *Blom* disclose requesting from the data provisioning component, upon successful checking of the attributes specified in the description information, a confirmation object which is assigned to a rights object assigned to the encrypted user data object in order to check compatibility of the rights object and the encrypted user data object. (Page 2 of the Final Office Action). Applicants disagree. *Blom* discloses various scenarios on how to associate one or more encryption keys to a content object. (Page 2, Paragraphs [0011] and [0012]). However, *Blom* is silent to any teachings or suggestions of requesting a confirmation object which is assigned to a rights object to check compatibility of the rights object and the encrypted user data object, as found in Claim 31. It appears based on the relied upon sections of *Blom*, the described system and method does not provide a way to check whether a rights object and an encrypted user data object stored on a telecommunications device before the rights object is downloaded are compatible.

Further, in response to Applicants' remarks that *Blom* does not qualify as a § 102(e) reference, the Examiner provides unsupported arguments that the citations relied upon in *Blom* are disclosed in U.S. Provisional Application No. 60/338,686 ('686 *Provisional Application*). For example, in the Continuation Sheet of the Advisory Action, the Examiner contends that the "relied upon citations [0007, 0011-0012, 0014, 0085, 0121]...[are] disclosed in the provisional '686'." (Continuation Sheet of Advisory Action mailed October 2, 2009). However, the Examiner fails to provide any evidence (e.g., page number, paragraph number, figures) directly from the '686 *Provisional Application* to support the Examiner's contention. In rejecting claims for want of novelty or obviousness, the examiner must cite the best references at his or her command. When a reference is complex or shows or describes inventions other than that claimed by the applicant, the particular part relied on must be designated as nearly as practicable. *The pertinence of each reference, if not apparent, must be clearly explained* and each rejected claim specified. 37 C.F.R. § 1.104(c)(2) (emphasis added). Thus, Applicants submit that the Examiner has failed to establish that *Blom* qualifies as prior art under 35 U.S.C. § 102(e) as the Examiner has failed to show that the relied upon sections of *Blom* was disclosed in the '686 *Provisional Application*.

The cited reference fails to disclose the recited limitations and cannot anticipate Claim 31. Given that Claims 32 and 33 depend from Claim 31, Applicants submit that Claims 32 and 33 are also allowable. As such, Applicants respectfully request reconsideration and withdrawal of the rejections under 35 U.S.C. § 103 and full allowance of Claims 31-33.

Rejections under 35 U.S.C. § 103

In order to establish a *prima facie* case of obviousness, the references cited by the Examiner must disclose all claimed limitations. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974). Even if each limitation is disclosed in a combination of references, however, a claim composed of several elements is not proved obvious merely by demonstrating that each of its elements was, independently, known in the prior art. *KSR Int'l Co. v. Teleflex Inc.*, 127 S.Ct. 1727, 1741 (2007). Rather, the Examiner must identify an apparent reason to combine the known elements in the fashion claimed. *Id.* "Rejections on

obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” *Id.* (citing *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006)). Finally, the reason must be free of the distortion caused by hindsight bias and may not rely on ex post reasoning. *KSR*, 127 S.Ct. at 1742. In addition, evidence that such a combination was uniquely challenging or difficult tends to show that a claim was not obvious. *Leapfrog Enterprises, Inc. v. Fisher-Price, Inc. and Mattel, Inc.*, 485 F.3d 1157, 1162 (Fed. Cir. 2007) (citing *KSR*, 127 S.Ct. at 1741).

Claims 25-30 and 34-48 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Blom* in view of U.S. Patent Publication 2002/0023219 filed by Menno Anne Treffers *et al.* (*Treffers*) and further in view of U.S. Patent Publication 2002/0112163 filed by Mark Ireton (*Ireton*).

Treffers discloses a method and device for controlling distribution and use of a digital work. Circumvention of usage rights of a digital work is prevented by providing hidden information containing a checksum over a data block containing the usage rights information. (Paragraph [0016]). A “copy” and “restore” attack cannot be successfully performed because the hidden checksum is changed with the update of the usage right information and will not be valid for the restored original usage right information. (Paragraph [0016]).

Ireton discloses a system for ensuring the legitimacy of digital media content.

Claim 25 recites, in part, a method comprising “comparing the checksum extracted from the confirmation object with the redetermined checksum so that, should the two checksums tally, compatibility of the rights object assigned to the confirmation object and the encrypted user data object transmitted to the first telecommunications device in the container object may be concluded.”

Claim 48 recites, in part, a telecommunications system comprising at least one first telecommunications device “wherein the checksum extracted from the confirmation object is compared with the re-determined checksum so that, should the two checksums tally, compatibility of the rights object assigned to the confirmation object and the encrypted user data object transmitted to the first telecommunications device in the container object may be concluded.”

Applicants respectfully submit that the cited references fail to teach, disclose or suggest every element of Applicants' invention. *Blom*, *Treffers*, or *Ireton*, alone or in combination, fail to teach a method for handling encrypted user data objects comprising "comparing the checksum extracted from the confirmation object with the redetermined checksum so that, should the two checksums tally, compatibility of the rights object assigned to the confirmation object and the encrypted user data object transmitted to the first telecommunications device in the container object may be concluded," as recited in Claim 25. *Blom*, *Treffers*, or *Ireton*, alone or in combination, additionally fail to disclose a telecommunications system for handling encrypted user data objects comprising at least one first telecommunications device "wherein the checksum extracted from the confirmation object is compared with the re-determined checksum so that, should the two checksums tally, compatibility of the rights object assigned to the confirmation object and the encrypted user data object transmitted to the first telecommunications device in the container object may be concluded," as recited by Claim 48.

The Examiner contends that Paragraphs [0016, 0050-0051] of *Treffers* discloses comparing the checksum extracted from the confirmation object with the redetermined checksum so that, should the two checksums tally, compatibility of the rights object assigned to the confirmation object and the encrypted user data object transmitted to the first telecommunications device in the container object may be concluded. (Page 4 of the Final Office Action). The comparison using the checksum disclosed in *Treffers*

provides the advantage that a 'copy and restore attack' [that] leads to a mismatch between the hidden key-locker key KLK or the alternative hidden checksum and the restored key-locker table KLT. This mismatch either prevents a descrambling of the key-locker table KLT or leads to an error in the verification processing. Thus, the fraud attack can be detected at the disc drive.

(Paragraphs [0051] and [0052]). The prevention of a descrambling process or an indication of an error in the verification processing cannot be construed as comparing the checksum extracted from a confirmation object with a redetermined checksum so that, should the two checksums tally, *compatibility of a rights object assigned to the confirmation object and a*

encrypted user data object transmitted to the first telecommunications device in the container object may be concluded, as found in Claims 25 and 48.

The cited references fail to disclose the recited limitations and cannot render obvious Claims 25 and 48. Given that Claims 26-30 depend from Claim 25, Applicants submit that Claims 26-30 are also allowable. As such, Applicants respectfully request reconsideration and withdrawal of the rejections under 35 U.S.C. § 103 and full allowance of Claims 25-30 and 48.

Given that Claims 34-47 depend from Claim 31, Applicants submit that Claims 34-47 are also allowable. As such, Applicants respectfully request reconsideration and withdrawal of the rejections under 35 U.S.C. § 103 and full allowance of Claims 34-47.

No Waiver

All of Applicants' arguments and amendments are without prejudice or disclaimer. Additionally, Applicants have merely discussed example distinctions from the references relied upon. Other distinctions may exist, and Applicants reserve the right to discuss these additional distinctions in a later Response or an Appeal, if appropriate. By not responding to additional statements made by the Examiner, Applicants do not acquiesce to the Examiner's additional statements. The example distinctions discussed by Applicants are sufficient to overcome the rejections asserted in the present Office Action.

Request for Continued Examination

Applicants enclose a Request for Continued Examination (RCE) Transmittal and authorize the Commissioner to charge the \$810.00 fee to Deposit Account No. 50-2148 of Baker Botts L.L.P.

Petition For Extension Of Time

Applicants respectfully submit herewith a Petition for One-Month Extension of Time Request. Applicants authorize the Commissioner to charge the amount of \$130.00 for the required filing fee to Deposit Account No. 50-2148 of Baker Botts L.L.P.

CONCLUSION

Applicants appreciate the Examiner's careful review of the application. Applicants have now made an earnest effort to place this case in condition for allowance in light of the amendments and remarks set forth above. For the foregoing reasons, Applicants respectfully request reconsideration of the rejections and full allowance of Claims 25-48.

Applicants authorize the Commissioner to charge \$810.00 fee for the RCE to Deposit Account No. 50-2148 of Baker Botts L.L.P.

Applicant authorizes the Commissioner to charge the amount of \$130.00 for the Request for Extension of Time to Deposit Account No. 50-2148 of Baker Botts L.L.P.

Applicant believes there are no additional fees due; however, the Commissioner is hereby authorized to charge any fees necessary or credit any overpayment to Deposit Account No. 50-2148 of Baker Botts L.L.P.

If there are any matters concerning this Application that may be cleared up in a telephone conversation, please contact Applicants' attorney at 512.322.2555.

Respectfully submitted,
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Date: November 23, 2009

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Enclosures:

1. Request for Continued Examination; and
2. Petition for Extension of Time (one month.)